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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,609	08/05/2003	George Dale Grayson	IS-001	6607
25962 7590 12/23/2010 SLATER & MATSIL, L.L.P. 17950 PRESTON RD, SUITE 1000 DALLAS, TX 75252-5793				
EXAMINER SWEARINGEN, JEFFREY R				
ART UNIT 2445		PAPER NUMBER		
NOTIFICATION DATE 12/23/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@slater-matsil.com

Office Action Summary

Application No.

10/634,609

Applicant(s)

GRAYSON ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 15-19, 25-34 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 and 39-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 25-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/10/09 has been entered.

Response to Arguments

2. Applicant asked what element in Merrill is the plurality of resources. Powers teaches the *receiving on the client a client application, the client application requiring a plurality of resources to execute*. Further, Merrill discloses multiple places where a *plurality of resources* are taught. Column 8, lines 39-60 discloses an animation data file, which includes an animation header block and a series of bitmaps. In column 5, lines 59-65 of Merrill, four modules are used to implement the playback of animation – a sequencer, a loader, a regionizer, and a mouth animation module. The mouth animation module in column 6, lines 17-27 discloses both the presence of a mouth Animation module and an animation mouth data file, which loads specific image data from the mouth data file.

3. Applicant asked what element in Merrill is the subset of resources. The versioning of Merrill is taught by both the animation file for the character (disclosing bitmaps within a bounding region), and the mouth file.

4. Applicant asked what element in Merrill discloses a scene. This is the bounding region of the animation as taught in Merrill, column 4, lines 48-59.
5. Applicant asked what element in Merrill was independently retrievable. The animation mouth data file of column 6, line 24 and the animation data file of column 6, line 1 or column 8, line 40 are separate files, and are therefore independently retrievable.
6. Applicant argued that Merrill failed to disclose *at least two of the resources having a different version and part of a display of a single animated character*. This is the mouth animation module in column 6, lines 17-27 discloses both the presence of a mouth Animation module and an animation mouth data file, which loads specific image data from the mouth data file. Both are part of a display of a single animated character.
7. Applicant argued that Merrill failed to disclose *the at least two of the resources are presented simultaneously*. Both the animation and the mouth overlay are presented simultaneously. See Merrill, column 6, lines 17-27, where the mouth animation module coordinates output with the animation. Coordinated output is simultaneous.
8. Applicant argued that Merrill failed to disclose *at least two of the resources being independently retrievable with respect to each other and part of a single character*. The animation mouth data file of column 6, line 24 and the animation data file of column 6, line 1 or column 8, line 40 are separate files, and are therefore independently retrievable. The mouth animation module in column 6, lines 17-27 discloses both the presence of a mouth Animation module and an animation mouth data file, which loads

specific image data from the mouth data file. Both the mouth animation module and the animation module are part of a display of a single animated character.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 25-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The specification indicates in [0035] that "all functions described herein may be performed in either hardware or software." Applicant indicates in the specification that the software can be downloaded over the internet in [0152]. Applicant fails to define in the specification what a medium with a computer program embodied thereon encompasses. 1351 OG 212 states that when the specification is silent to the definition of computer readable media, the broadest reasonable interpretation must apply, and the medium must be treated as encompassing a transitory signal *per se*, which is unpatentable under In re Nuijten. The claims 25-34 are therefore rejected under 35 U.S.C. 101 for encompassing non-statutory subject matter.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-3, 5, 25-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill et al. (US 6,369,821) in view of Powers et al. (US 6,362,817).
12. In regard to claim 1, Merrill disclosed *a method of providing information on a client, the method comprising:*

determining by the client a subset of the resources that the client application requires, each of the resources having a version, at least two of the resources having a different version and part of a display of a single animated character; Merrill, column 15, lines 40-61. Applicant's specification references assets of an object to include appearance and sound of an animated character, such as different positions of a mouth of a character based on a phrase being said. Specification, page 13, [0049]. Merrill teaches a client application determining if animations present on the local computer have the most recent version, or need to be superceded by a newer version of the animation.

retrieving the subset of the resources by version; and Downloading the newest version of the animation. Merrill, column 15, lines 55-61; column 16, lines 1-8

performing the client application with the subset of resources to provide information such that the at least two of the resources are presented simultaneously. Merrill, column 15, lines 59-61; column 9, lines 52-53.

Merrill failed to disclose *receiving on the client a client application, the client application requiring a plurality of resources to execute.*

Powers disclosed the use of a client computer to access HTML graphical files over the Internet. Powers, column 5, lines 44-53. Powers stored portions of the relevant media files to be displayed locally at the client machine. Powers, column 6, lines 62-64. It would have been obvious to one of ordinary skill in the art at the time of invention that in order to use Merrill to display animation in a distributed computing fashion, as suggested by Merrill when Merrill downloads updates of animation over the Internet, that Merrill could be expanded to displaying animation in a client-server environment by implementing a downloadable graphical environment such as the HTML and VRML environments taught by Powers.

Merrill allowed for multiple animations in a character data file (Merrill, column 15, lines 1-14). It would have been obvious to one of ordinary skill in the art at the time of invention that each of the animations in Merrill could have different version updates (Merrill, column 15, lines 46-53) to allow the graphics designer on the server side to update different animations as they would choose.

13. In regard to claim 2, Merrill further disclosed *the resources include assets, asset bags, scenes, audio files, or graphics files*. Merrill, column 15, lines 40-61. Applicant's specification references assets of an object to include appearance and sound of an animated character, such as different positions of a mouth of a character based on a phrase being said. Specification, page 13, [0049]. Merrill teaches a client application determining if animations present on the local computer have the most recent version, or need to be superseded by a newer version of the animation.

14. In regard to claim 3, Merrill further disclosed *the client application is an interactive application*. Merrill, column 3, line 59 – column 4, line 6; column 3, lines 25-59; column 5, lines 19-31.
15. In regard to claim 5, Merrill further disclosed *retrieving includes retrieving the subset of resources from an application server*. Merrill, column 15, lines 40-59.
16. Claim 25 is substantially the same as claim 1.
17. Claim 26 is substantially the same as claim 2.
18. Claim 27 is substantially the same as claim 3.
19. Claim 29 is substantially the same as claim 5.
20. Claims 4, 6-10, 28, 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill et al. (US 6,369,821) in view of Powers et al. (US 6,362,817) and further in view of Toyama et al. (US 7,068,309).
21. In regard to claim 4, Merrill in view of Powers failed to disclose using a peer system to download files. Toyama disclosed a peer-to-peer system for exchanging image files. Toyama, column 3, lines 38-39. It would have been obvious to one of ordinary skill in the art at the time of invention that the addition of a peer-to-peer system with server backup to the Merrill/Powers combination would have allowed for decreased internet bandwidth usage, faster local file downloads, and redundancy if a peer-to-peer local network fails.
22. Claim 28 is substantially the same as claim 4.

23. In regard to claim 6, Merrill in view of Powers failed to disclose a two tiered system of checking a second client for the presence of a resource, and if the second client did not have the resource, then loading it from a server.

24. Toyama disclosed a peer-to-peer system for exchanging image files. Toyama, column 3, lines 38-39. If both peer clients are on-line at the same time, the two clients transfer the image file directly without use of a server cache. Toyama, column 4, lines 35-38. A client can also download the image file directly from the server cache. Toyama, column 4, lines 13-34.

25. It would have been obvious to one of ordinary skill in the art at the time of invention that the addition of a peer-to-peer system with server backup to the Merrill/Powers combination would have allowed for decreased internet bandwidth usage, faster local file downloads, and redundancy if a peer-to-peer local network fails.

26. Claim 30 is substantially the same as claim 6.

27. In regard to claim 7, Merrill disclosed *a method of providing an interactive application on a client, the method comprising:*

determining a subset of the resources that the client application requires to perform the scene, at least two of the resources being independently retrievable with respect to each other and part of a single character; Merrill, column 15, lines 40-61.

Applicant's specification references assets of an object to include appearance and sound of an animated character, such as different positions of a mouth of a character based on a phrase being said. Specification, page 13, [0049]. Merrill teaches a client application determining if animations present on the local computer have the most

recent version, or need to be superseded by a newer version of the animation. The downloading of an animation from a remote site that has a new version is a resources that is required to perform the scene that is independently retrievable

retrieving the subset of the resources by version; and Downloading the newest version of the animation. Merrill, column 15, lines 55-61; column 16, lines 1-8 performing the client application with the subset of resources to provide information. Merrill, column 15, lines 59-61.

Merrill failed to disclose *receiving from an application server a client application and a scene, the scene defining an interaction between a plurality of resources simultaneously presented to a user and the client application being configured to interpret and execute the scene.*

Powers disclosed the use of a client computer to access HTML graphical files over the Internet. Powers, column 5, lines 44-53. Powers stored portions of the relevant media files to be displayed locally at the client machine. Powers, column 6, lines 62-64. It would have been obvious to one of ordinary skill in the art at the time of invention that in order to use Merrill to display animation in a distributed computing fashion, as suggested by Merrill when Merrill downloads updates of animation over the Internet, that Merrill could be expanded to displaying animation in a client-server environment by implementing a downloadable graphical environment such as the HTML and VRML environments taught by Powers.

Merrill allowed for multiple animations in a character data file (Merrill, column 15, lines 1-14). It would have been obvious to one of ordinary skill in the art at the time of

invention that each of the animations in Merrill could have different version updates (Merrill, column 15, lines 46-53) to allow the graphics designer on the server side to update different animations as they would choose.

28. Powers and Merrill failed to disclose a two tiered system of checking a second client for the presence of a resource, and if the second client did not have the resource, then loading it from a server.

29. Toyama disclosed a peer-to-peer system for exchanging image files. Toyama, column 3, lines 38-39. If both peer clients are on-line at the same time, the two clients transfer the image file directly without use of a server cache. Toyama, column 4, lines 35-38. A client can also download the image file directly from the server cache. Toyama, column 4, lines 13-34.

30. It would have been obvious to one of ordinary skill in the art at the time of invention that the addition of a peer-to-peer system with server backup to the Merrill/Powers combination would have allowed for decreased internet bandwidth usage, faster local file downloads, and redundancy if a peer-to-peer local network fails.

31. In regard to claim 8, Merrill further disclosed *the client application is an interactive application*. Merrill, column 3, line 59 – column 4, line 6; column 3, lines 25-59; column 5, lines 19-31.

32. In regard to claim 9, Merrill further disclosed *determining is performed by traversing an activity graph*. Applicant's specification states an activity graph "includes a series of nodes and relationships between those nodes. The nodes define an activity or action and the relationship between the nodes represents the sequence of nodes."

Specification, page 11, [0044]. Merrill disclosed a system of implementing the animation system based on how many times a client retrieved a particular animation. Merrill, column 16, lines 35-57. This meets Applicant's definition of *traversing an activity graph*.

33. In regard to claim 10, Merrill further disclosed *the resources include assets, asset bags, scenes, audio files, or graphics files*. Merrill, column 15, lines 40-61. Applicant's specification references assets of an object to include appearance and sound of an animated character, such as different positions of a mouth of a character based on a phrase being said. Specification, page 13, [0049]. Merrill teaches a client application determining if animations present on the local computer have the most recent version, or need to be superceded by a newer version of the animation.

34. Claim 31 is substantially the same as claim 7.

35. Claim 32 is substantially the same as claim 8.

36. Claim 33 is substantially the same as claim 9.

37. Claim 34 is substantially the same as claim 10.

Conclusion

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kulas

US 7,830,385

Kulas disclosed breaking an animated character into smaller parts, such as in column 12, lines 58-67.

Le Tuan

US 7,737,980

Cederwall et al.	US 7,663,628
Cohen et al.	US 7,420,564
Calkins et al.	US 7,262,775
McMillan et al.	US 6,661,418
Cook	US 6,657,628
Gasper et al.	US 5,630,017

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen

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Examiner
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/Jeffrey R. Swearingen/
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